

## Bingaman Amendment to WORK Act -- #8

**Sponsor:** Sen. Bingaman

**Purpose:** To clarify that state and local governments may provide health services to immigrants with their own revenue.

The amendment would strike the word “health” in Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

There would be no federal cost associated with this amendment.

**Background:** A provision in PRWORA has been read by state and local governments with varying interpretations. State and local jurisdictions across the nation have largely ignored the provision while a few, such as the University of New Mexico Hospital, have read it to require states to have to pass new legislation authorizing state and local expenditures on non-qualified immigrants for non-emergency care services.

Many constitutional scholars believe this small provision is unconstitutional and would not withstand a 10<sup>th</sup> Amendment challenge, as it interferes in state and local governments’ authority to spend their own revenues as they see fit. Can the federal government and senators from one state tell the state and local officials in another state if and how it can spend its own revenue?

It also imposes new and unnecessary legal and administrative costs on state and local governments despite the provision having no enforcement mechanism.

In addition, the current provision creates a double-standard by which none of the major federal public health programs have to screen out non-qualified immigrants, but state and local governments would have to pass affirmative laws to provide exactly the same services with their own revenue. Services provided through the National Breast and Cervical Cancer Early Detection program, for example, are exempt from screening for non-qualified immigrants, but identical services provided by state and local governments might require such a screening.

State and local governments, far more often than the federal government, establish broad population-focused, public health programs. Public health experts would prefer to be free from restrictions on their ability to provide health care to all truly needy residents, regardless of immigration status just as they currently are for all major federal public health programs. Moreover, failing to treat serious, non-emergency medical conditions like asthma and diabetes results in both a human and a fiscal toll for local governments as untreated conditions lead to emergency care and higher costs.

In the case of the University of New Mexico, the denial of non-emergency care treatment has resulted in two high-profile cases on one man dying that was seeking dialysis and another 2 year-old child that ended up with emergency surgery at another non-profit hospital in the region.